

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

IN RE:

TRACEY J. FIRMIN xxx-xx-6456
REBECCA A. FIRMIN xxx-xx-7375
311 W. DREW
KIRBYVILLE, TX 75956

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* Case No. 17-10091
* Chapter 13
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Debtors

TRUSTEE'S RESPONSE TO DEBTOR(S)' MOTION TO MODIFY

 x Objection by Trustee.

 Comment by Trustee.

ATTORNEY FOR DEBTOR(S): STEVEN S. PACKARD

TRUSTEE: John J. Talton

BASED UPON MODIFICATION FILED ON: 3/29/18

I. Budget Information:

A.	Monthly Income	\$10388.60
B.	Monthly Expenses	\$4128.06
C.	Difference	\$6260.54
D.	Date Budget Filed	3/29/18

II Analysis of Modification:

A. Due Date for first payment: 3/11/2017

B. Status of Plan Payments under Modification:

 x 1. Debtor is current under Modification

 2. Debtor is delinquent under the Modification in the amount of
\$ _____ as of _____ with the next plan payment being due on
_____.

C. Last payment received from Debtor posted by Trustee: 4/16/2018

D. Date of last confirmed Plan: 5/16/2017

E. Attorney's Fee Disclosure:

 1. Amended or Supplemental 2016b Attorney Compensation Statement
filed requesting fee for the Modification in the amount of: \$ _____.

¹ The use of the singular term "Debtor" in this Trustee's Confirmation Report includes both debtors when the case has been initiated by the filing of a joint petition by spouses.

x 2. No Amended or Supplemental 2016b Attorney Compensation Statement has been filed.

F. Purpose of Motion to Modify:

- x To reconcile the Plan with allowed claims pursuant to the TRCC;
 To increase the amount of payments required under the Plan;
 To reduce the amount of payments required under the Plan;
 To provide for an allowed claim omitted from treatment under the Plan;
 To extend the time for making payments required under the Plan;
 To reduce the time for making payments required under the Plan;
 To surrender collateral pursuant to Section 3.6;
 To cease further plan disbursements to a particular claimant;
 To cure a delinquency in the plan payments caused by _____;
 To increase the amount of retained income tax refunds authorized under Section 2.4 for following reason: _____;
 To seek approval of an additional award of attorney's fees to the Debtor's attorney;
 Other: _____;
 To add a nonstandard provision to Part 8 of the Plan.

III. Monthly plan payments to be made under the Motion to Modify:

Amount	Number of Payments	Total to be Paid
\$3947	2	\$7894
\$3950	1	\$3950
\$4050	57	\$230850

IV. Total Plan Base and Amount available to Creditors:

Total Plan Base under Modification	\$242,694
Less Trustee Fees	\$24,269.40
Net Amount to Creditors	\$218,424.60

V. Claims being paid by Trustee pursuant to the previous Confirmation Order/Modification Order and the proposed changes in this Motion to Modify:

Creditor	Plan Section Modified	Previous Principal	Change Per Modification	Int. Rate	Monthly Payment	Estimated Total Paid
STEVEN S. PACKARD PACKARD LAPRAY 1240 ORLEANS STBEAUMONT, TX 77701	n/a	\$3387	n/a	0%	Pro-Rata	\$3,387
STEVEN S. PACKARD PACKARD	n/a	\$500	n/a	0%	Pro-Rata	\$500

LAPRAY 1240 ORLEANS STBEAUMONT, TX 77701		Stay work				
JASPER COUNTY P O DRAWER 1970 JASPER, TX 75951	n/a	\$1311.49	n/a	12%	\$137.73	\$1,357.15
HARLEY-DAVIDSON CREDIT CORP. BOX 15129 PALATINE, IL 60055	3.4	\$5,465.62	n/a	5%	\$205.15	\$5,805.55
MODEL FINANCE CO.C O CAPITAL RECOVERY GROUP BIN# 920074, PO BOX 29425PHOENIX, AZ 85038	3.4	\$1193.51	n/a	5%	\$43.73	\$1,269.64
REGIONAL ACCEPTANCE CORPORATIONBANKR UPTCY SECTION/ 100- 50-01-51 PO BOX 1847WILSON, NC 27894	3.4	\$10437.50	\$19744.34	5%	\$595.19	\$21,426.96
SKOPOS FINANCIAL LLCP.O. BOX 1640 COPPELL, TX 75019	3.4	\$9900	\$24453.95	5%	\$739.82	\$26,633.52
MARTIN MOTORS 5110 COLLEGE ST. BEAUMONT, TX 77707	n/a	\$17068	n/a	5%	\$643.18	\$18,125.15
MARTIN MOTORS 5110 COLLEGE ST. BEAUMONT, TX 77707	n/a	\$14029	n/a	5%	\$528.66	\$14,897.92
MARTIN MOTORS 5110 COLLEGE ST. BEAUMONT, TX 77707	n/a	\$2084.38	n/a	5%	\$78.55	\$2,213.48
AARON SALES & LEASE1015 COBB PLACE BOULEVARD ATLANTA, GA 30156	n/a	\$200	n/a	5%	\$13.16	\$207.04
RGM RENTALS, LLCPO BOX 1840 CENTER, TX 75935	n/a	\$2160.16	n/a	5%	\$81.41	\$2,293.94
FIRST NATIONAL BANK OF AMERICAP.O. BOX 980 EAST LANSING, MI 48826	n/a	\$27070.92	n/a	5.75 %	\$911.43	\$29,272

VI. New claims being paid by Trustee pursuant to pending Modification that was not otherwise provided for in previous Confirmation Order:

Creditor	Added to Plan Section	New Principal	Int. Rate	Monthly Payment	Estimated Total Paid

VII. Projected Amount to Unsecured Creditors and percentage to be paid:

Projected Amount to Unsecured Creditors	\$91,035.25
Total Unsecured Creditors (less priority)	\$88,377.05 x 5%=\$100,067.04
Projected Dividend to Unsecured Creditors	91%

VIII. The Trustee makes the following recommendations concerning the Modification:

☐ The Modification should be approved.

☒ Trustee objects to the proposed Modifications for the following reason(s):

☐ 1. Term of the modification is less than the Applicable Commitment Period.

☐ 2. Debtor has insufficient disposable income to fund the proposed modifications for the following reason(s):

☐ Per budget.

☐ Unemployment income and/or other income as listed on Schedule I will or has ended.

☐ Inability to live within budget and make post-petition mortgage payments (or other direct payments) and/or plan payments under previous Confirmation Order.

☐ Other:

☒ 3. Debtor has failed to dedicate all of their projected disposable income to be received in the applicable commitment period for the following reason(s):

☐ Per budget.

☐ Term of plan is less than the Applicable Commitment Period and such fails to provide for payment in full of all of the unsecured creditors, including interest.

☒ Failed to dedicate tax refunds. **Need her 2016 tax return and any refund that may be due and 2017 tax return for both and any refund that may be due.**

☐ Failed to dedicate income from new job and/or other sources that are not otherwise disclosed.

☐ Other:

___ 4. Debtor has not filed an amended budget pursuant to the Court's Local Rules which prevents a determination of whether Debtor will be able to make all of the plan payments under the Modification.

x 5. Debtor has not provided new pay advices or other evidence of current income which prevents the Trustee from confirming the amount of the Debtor's current income.

___ 6. Debtor has failed to file with the Court proper certification that all post-petition payments are being made direct by the Debtor as provided for in the confirmed Plan as modified in the Motion to Modify.

x 7. Modification appears to be underfunded. **To pay 100% plus 5% to unsecured creditors.**

___ 8. Modification fails to provide for or fully provide for the priority claim(s) and/or proposes to overpay the priority claim(s) of the following claimants:

x 9. Modification fails to provide for or fully provide for the secured claim(s) and/or proposes to overpay the secured claim(s) of the following claimants: **Jasper Co. has been paid in full plus interest.**

___ 10. Modification proposes to pay the following claimant(s) that do not otherwise hold an allowed claim filed in this case:

x 11. Modification proposes to continue to pay the following claimant(s) where previous disbursements made to said claimant(s) have been returned to the Trustee for the reason as stated: **Model Finance co.—refused, unable to forward.**

___ 12. Modification proposes to pay interest to the following unsecured claim(s) and/or unsecured portions of secured claims which discriminates against other unsecured creditors:

___ 13. Debtor is not current on the Debtor's plan payments under the terms of the proposed Modification.

___ 14. Modification appears to be infeasible in that the Debtor has a poor payment record with no indication how the Debtor will be able to make future payments under the Modification.

x 15. Attorney's fees require approval by the Court. **Attorney is requesting fees for stay litigation work, however, there is no fee certification on file.**

x 16. Other: **1.) Modification fails to specify how plan payments are to be made.**

2.) Motion indicates the following claims are being modified, however there appears to be no change in the claim's treatment: Harley Davidson Financial and Model Finance Co.

Respectfully submitted,

JOHN J. TALTON
CHAPTER 13 TRUSTEE

/s/ John J. Talton
John J. Talton, SBN 19629700
Lloyd T. Kraus, SBN 24066773
110 N. College #1200
Tyler, Texas 75702
(903) 593-7777, Fax (903) 597-1313

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the above and foregoing document has been served upon the following parties in interest by mailing a copy of same to them via first class mail or electronically on 4/23/18:

STEVEN S. PACKARD
PACKARD LAPRAY
1240 ORLEANS ST
BEAUMONT, TX 77701

TRACEY J. FIRMIN
REBECCA A. FIRMIN
311 W. DREW
KIRBYVILLE, TX 75956

/s/John J. Talton
John J. Talton